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Situation of human rights in Myanmar

Note by the Secretary-General*

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, in accordance with Assembly resolution 68/242.

* Late submission.

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Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee

Summary

The important transition and far-reaching reforms in Myanmar must be commended. Yet, possible signs of backtracking should be addressed so as not to undermine the progress achieved. The present report sets out the Special Rapporteur's preliminary key areas of focus and recommendations aimed at contributing to Myanmar's efforts towards respecting, protecting and promoting human rights and achieving democratization, national reconciliation and development.

I. Introduction

1. The mandate of the Special Rapporteur on the situation of human rights in Myanmar was established pursuant to Commission on Human Rights resolution 1992/58 and recently extended by Human Rights Council resolution 25/26. The present report is submitted pursuant to Council resolution 25/26 and General Assembly resolution 68/242.

II. Background

2. Following the completion of the term of the previous mandate holder, the current mandate holder took up her functions only in June 2014, which resulted in a shorter period than usual to conduct a country visit and review the information gathered. The present report therefore sets out the Special Rapporteur's preliminary observations, to be supplemented by her oral statement to the General Assembly.

3. On 16 June, the Special Rapporteur met with the Permanent Representative of Myanmar to the United Nations in Geneva, and subsequently with representatives of other Member States and United Nations entities in Geneva.

4. From 17 to 26 July, the Special Rapporteur conducted her first mission to Myanmar; she expresses her appreciation to the Government for its cooperation during the 10-day visit.[1] She held meetings in Nay Pyi Taw and Yangon, and visited Mandalay as well as Rakhine and Kachin States. She visited Insein, Sittwe, Bhamo and Myitkina prisons, where she met political prisoners. She also held meetings in Bangkok, including with representatives of the Ministry of Foreign Affairs of Thailand.

5. The Special Rapporteur sent joint communications in June and in August.[2]

III. Proposed methodology of work and approach to mandate

6. The Special Rapporteur recognizes the significance of Myanmar's reform process and considers it vital to engage with different branches of government at all levels, legislative bodies and the judiciary to better appreciate the realities on the ground. Similarly, she believes it important to engage with community and religious leaders, representatives of civil society and victims of human rights violations. Her observations and recommendations are focused on how to ensure greater respect for international human rights principles and standards in Myanmar.

7. The Special Rapporteur will continue dialogue with the international community, which should remain engaged and continue to support Myanmar in its reform process, and in fulfilling its international human rights obligations. In fulfilling her mandate, she hopes to undertake visits to neighbouring countries.

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[1] For the list of meetings and locations visited, see the Special Rapporteur's end of mission press statement: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14909LangID=E.

[2] To be published in communications reports of special procedures covering the period from June to November 2014.

8. She intends to collaborate with other thematic special procedures mandate holders and believes that the Government would benefit from closer engagement with them.

9. Myanmar will undergo the second cycle of the universal periodic review in October and November 2015. The Special Rapporteur will follow this process and encourages the implementation of accepted recommendations from the first universal periodic review cycle in 2011. She will also follow the upcoming review of Myanmar under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.

IV. Preliminary key areas of focus

10. The Special Rapporteur's preliminary key areas of focus, as guided by the resolutions of the Human Rights Council and the General Assembly, and based on her country visit and additional research, are set out below.

A. Electoral process, political participation and democratic space

11. The environment for and the actual conduct of elections in 2015 will be an important benchmark in Myanmar's continuing democratic transition. In accordance with international standards, elections should be transparent, inclusive, participatory, free and fair. It is therefore important that Myanmar draw lessons from the 2010 general elections and continue to make improvements in the electoral process. The electoral legal framework, its implementation by the Union Election Commission and other relevant authorities, and the process leading up to the elections (including with respect to election campaigning and voter education and participation) should be monitored closely and assessed against international standards.

12. According to article 391 of the Constitution of 2008, persons eligible to vote are citizens who are at least 18 years old when the election commences and not disqualified by law; those disqualified include members of religious orders; persons serving prison terms; persons determined to be of unsound mind and so declared by a competent Court; persons who have not yet been declared free from insolvency; and persons disqualified by election law. The Constitution also provides voting rights to those granted that right under the law. For example, the Amyotha Hluttaw Election Law of 2010 provides, among other things, that a citizen, including an associate and a naturalized citizen, as well as a holder of a temporary certificate who has reached the age of 18 years, shall be eligible to vote.[3] This is notable, given that international law permits the right to vote and to stand for election to be limited to citizens (which should be subject only to reasonable restrictions).[4] The Constitution and election laws go beyond this permissible restriction to enable non-citizens to vote under the law.[5] A distinction is, however, made between an

[3] Sect. 6 (a); see also sect. 6 (a) of the Pyithu Hluttaw Election Law.

[4] Art. 25 of the International Covenant on Civil and Political Rights; Human Rights Committee, general comment No. 25 (CCPR/C/21/Rev.1/Add.7).

[5] The Constitution nonetheless reserves most human rights only for citizens (see sect. D below).

associate and a naturalized citizen, as compared with a "full" citizen.[6] The Committee on the Rights of the Child has previously recommended the abrogation of the legal provisions setting out the three different categories of citizenship under the Citizenship Law of 1982.[7] It is also possible to revoke an associate or naturalized citizenship on the basis of vague and broad grounds — such as showing "disaffection or disloyalty to the State by any act or speech or otherwise"[8] — thereby eliminating the right to vote and increasing vulnerability to being stateless.[9] This suggests a lower class of citizenship for associate and naturalized citizens.

13. To stand for elections in the Lower House, article 120 of the Constitution requires that candidates be at least 25 years old; be a citizen born of both parents who are citizens; have resided in Myanmar for at least 10 consecutive years up to the time of the election (although time spent away with government permission is accepted as in-country residence); and be qualified under the relevant election law. The same provisions apply for elections in the Upper House, with the exception that the minimum age of candidates is 30 years. Article 121 provides a long list of criteria for the disqualification of candidates, which include vague provisions that may be interpreted broadly to deny one's right to stand for elections — in contravention of international norms.[10] Additionally, both associate and naturalized citizens are disqualified from standing for elections in both houses.[11] Article 59 of the Constitution sets out the qualifications for the President and Vice-Presidents, including the nationality and birthplace of their parents; the length of their period of residence prior to the election; and the nationality of their spouse, their children and the spouses of their children. International standards hold that the right to be elected may be limited only on the basis of objective and reasonable criteria, for instance, minimum age and mental incapacity. Disqualifications should not be based on unreasonable or discriminatory requirements such as education, residence or descent, or on political affiliation.[12]

14. The Political Parties Registration Law of 2010 allows temporary certificate holders to form and become members of political parties in addition to citizens, associate citizens and naturalized citizens.[13] Under international law, non-citizens can be members of political parties. However, in March 2014 the Amyotha Hluttaw reportedly passed a constitutional amendment "removing the right of temporary citizenship card holders to form political parties".[14] There are indications of

[6] Article 345 of the Constitution states that a citizen is one who is already a citizen when the Constitution comes into effect or one who is born to parents who are both citizens. The overriding international norm governing citizenship, however, is place of birth (jus soli). The other accepted criterion for acquisition of nationality is through descent (jus sanguinis) i.e., citizenship acquired from one parent, rather than both.

[7] CRC/C/MMR/CO/3-4, paras. 41 and 42.

[8] Sects. 35 (d) and 58 (d) of the Citizenship Law of 1982.

[9] It is noted further, for example, that the combination of sects. 29 and 31, and 51 and 54 of the 1982 Law could also render children of associate and naturalized citizens particularly vulnerable to being stateless.

[10] See, for example, art. 121 (g) and (h).

[11] See sect. 10 (m) of the Amyotha Hluttaw Election Law and sect. 10 (m) of the Pyithu Hluttaw Election Law.

[12] Human Rights Committee general comment No. 25, paras. 4, 15 and 17.

[13] Sects. 4 (a) and 10 (a).

[14] Art. 22 of the International Covenant on Civil and Political Rights; also see A/57/18, para. 359, and A/58/40 (vol. I), para. 79 (17).

possible further steps to remove the voting rights of those with temporary citizenship.[15]

15. On 1 July 2014, the Union Election Commission issued a directive on new campaigning rules for the 2015 elections after consultation with political parties. The rules state that political parties can commence campaigning 30 days before the elections and are not allowed to canvass on the day before. Candidates are expected to apply for approval regarding all campaign activities. Reportedly, in order to give a speech or hold a rally, candidates must apply to the local election commission office within 15 days of being officially registered. Applications to hold rallies must include details such as the place, date, time and duration of the event, the planned speakers, information about the applicant and whether any vehicles will be used.[16] The rules were criticized by some as being too burdensome and restrictive, and the Election Commission reportedly recently agreed to some changes, including a two-month campaigning period.[17]

16. Enhancing women's political participation will be crucial for the electoral process, given women's severe underrepresentation in Government and Parliament. There is limited public awareness and understanding of women's important roles in the public and political sphere, particularly in the reform process. As a party to the Convention on the Elimination of All Forms of Discrimination against Women, Myanmar should do more to promote women's participation in public and political life and to eliminate discrimination and gender stereotypes.

17. According to the Human Rights Committee, freedom of expression, assembly and association are essential for the effective exercise of the right to vote and must be fully protected.[18] Persons entitled to vote must be able to do so freely without undue influence or coercion of any kind, and they should be able to form opinions independently, "free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind".[19] Thus, there should be strict and clear safeguards to prevent undue interference in public freedoms. According to the Special Rapporteur on the rights to freedom of peaceful assembly and of association, genuine elections cannot be achieved if these rights are curtailed (see A/68/299, para. 56).

18. The Special Rapporteur is therefore concerned at reports of the continued application of outdated legislation, such as the State Secrets Act of 1923 or the Emergency Provisions Act of 1950, as well as other legislation such as the Peaceful Assembly and Peaceful Procession Act, to criminalize and impede the activities of civil society and the media. She notes that this has increased the number of political prisoners and that sentences imposed are disproportionately high.

19. During her mission, the Special Rapporteur was informed about the arrests and trials of journalists who had reported on issues deemed too sensitive or critical of those in power, such as government corruption. She was also told of the threats and intimidation faced by journalists, including in trying to report on the recent violence

[15] *The Irrawaddy*, "Upper House approves ban on politics for non-citizens", 20 March 2014.
[16] *The Irrawaddy*, "Burma's Election Commission approves campaign rules", 14 July 2014.
[17] *Democratic Voice of Burma (DVB)*, "Election Commission backtracks on new campaign rules", 2 August 2014.
[18] Human Rights Committee general comment No. 25, paras. 12 and 19.
[19] Ibid., para. 19.

in Mandalay, and of a climate of uncertainty, intimidation and fear of arrest resulting in a form of self-censorship.

20. The Special Rapporteur has already publicly expressed concern regarding the sentencing of four journalists and an editor of *Unity Journal* to 10 years' imprisonment with hard labour under the State Secrets Act of 1923 (they had reported on the alleged existence of a chemical weapons factory), and the charges brought under section 18 of the Peaceful Assembly and Peaceful Procession Act against 50 journalists who had staged a silent protest against the verdict. The Government responded that the journalists had not been charged "because of reporting, but because of trespassing [in a] restricted area". Reportedly, the verdict is being appealed, although a date for the appeal hearing has not been set and the case filed against the 50 journalists has been dropped. The Special Rapporteur is also following developments regarding the trial of editors and staff of the *Bi Mon Te Nay Journal* who were originally charged under the Emergency Provisions Act of 1950 (but now apparently face lesser charges under sect. 505 (b) of the Penal Code) for a report citing an activist group's claim that Daw Aung San Suu Kyi and ethnic minority leaders had formed a new interim government.

21. These developments are troubling, given that increased freedom of expression, in particular media freedom, had widely been hailed as a key achievement of the reform process. In his radio address of 7 July, President Thein Sein proclaimed Myanmar one of the countries with the greatest media freedom in South-East Asia. Yet, he also warned that "if there is any media that exploits media freedom and causes harm to national security rather than reporting for the sake of the country, effective legal action will be taken against that media".

22. The Special Rapporteur is therefore encouraged by a reported meeting between the President and the Interim Press Council in August, at which it was apparently agreed that the Council would mediate disputes between journalists and the authorities. She welcomes the President's support for the resolution of disputes through the Council instead of legal action as the appropriate action in line with international standards.

23. During her mission, the Special Rapporteur received a copy of the News Media Law of 2014. Notably, it does not provide for custodial penalties for breaching media standards (although other laws can still be used to that end). It guarantees the right of media workers to criticize all branches of government and to obtain information. It also provides that publications should be free from censorship. However, there is no explicit provision recognizing the right to freedom of expression.[20]

24. The Special Rapporteur was also informed about the arrests and prosecution of people exercising their rights to freedom of peaceful assembly and association, particularly under section 18 of the Peaceful Assembly and Peaceful Procession Act. A disturbing example is the conviction of Chin activists who protested against an alleged rape of a woman by a military soldier in Chin State.

25. Civil society actors campaigning on land and environmental issues, or assisting communities affected by development projects, are reportedly often harassed and arrested (including under the Peaceful Assembly and Peaceful

[20] Article 19, "Myanmar: News Media Law", 8 July 2014.

Procession Act). During her mission, the Special Rapporteur met with U Sein Than, who had been arrested multiple times and was under trial in multiple township courts for protesting against land-grabbing and forced evictions. She is concerned that he was subsequently arrested again (and charged under sect. 18 of the Peaceful Assembly and Peaceful Procession Act) while reportedly making his way to the United Nations office to provide more information on his work. He was recently sentenced by two courts to a total of eight months in prison.[21] She is also following developments regarding farmers who had staged a "plough protest" on farmland allegedly confiscated by the military in Sagaing Division. Fifty-seven farmers were reportedly sentenced to between three months and three years in prison for trespassing and causing damage or loss of land, while a further 173 farmers await sentencing.

26. While there is some evidence of the police and authorities showing a more considered response to public demonstrations, there are continuing reports of the excessive use of force in breaking up protests. Such patterns of harassment and State force not only undermine the work of civil society, but also send an intimidating message to society at large. It is vital that the Government create a safe and enabling environment for civil society, given their central role in democratization, national reconciliation, development and the promotion and protection of human rights. Thus, any administrative and legislative provisions that impede their legitimate and peaceful activities should be abolished. Complaints of violations against civil society actors should be investigated, and those found responsible for violations should be brought to justice. There must be ways for the authorities to break through the cycle of control and suppression through a change of legislation, policies and practices, and through better understanding, negotiation and communication. This will in turn enable the authorities and civil society to work constructively together to address the challenges before Myanmar.

27. The bill amending the Right to Peaceful Assembly and Peaceful Procession Act of 2011 was adopted by Parliament on 18 June and signed by the President on 24 June 2014.[22] Previously, one could be sentenced to up to one year in prison and fined a maximum of 30,000 kyats under section 18 of the law for holding a peaceful assembly without permission. With the amendment, section 18 remains; however, the maximum prison sentence is now reduced by half. There is still a requirement to apply five days in advance, although merely for "consent" instead of for "permission" to exercise the right to freedom of peaceful assembly and peaceful procession. In this respect, the Special Rapporteur was informed that such consent would be issued as a matter of course unless the application had not been "submitted in accordance to the rules for consent". She notes that 85 out of 86 applications were approved between 24 June to 31 July, with one application dismissed for being incomplete. Yet, she notes that the information to be provided in the application is unduly burdensome and detailed, such as listing the chants that will be used and the approximate number of participants, with the consequent consent given being unduly restrictive, prescribing the exact parameters for holding the assembly based on the details provided. Additionally, the amended law retains a de facto authorization regime with no right of appeal if consent is not given. The Special Rapporteur thus echoes the views of the Special Rapporteur on the rights to freedom

[21] See www.irrawaddy.org/burma/rangoon-land-protest-leader-gets-8-months-prison.html.

[22] See *DVB*, "Peaceful assembly bill passed, now awaits president's signature", 19 June 2014; Article 19, "Myanmar disappointment surrounds amendment to assembly law", 27 June 2014.

of peaceful assembly and of association that the exercise of the right to freedom of peaceful assembly should not be subject to authorization by the authorities and that a prior notification should be sufficient, particularly if measures are needed to, for example, protect public safety and order. Furthermore, spontaneous assemblies should be recognized in law and exempted from prior notification (see A/HRC/20/27, paras. 28 and 29).

28. In addition, the rules for participation in a peaceful assembly and/or procession under section 8 (e) and chapter 5 of the law were not amended. They are arguably broad enough for participants to be arrested and prosecuted on various grounds. Also, the right to freedom of peaceful assembly and peaceful procession is accorded only to citizens, rather than to everyone as required under international law.

29. The Special Rapporteur notes that the draft law relating to registration of organizations is due to be adopted by Parliament. In the light of the concerns surrounding this bill, she recommends that it be further revised in line with international human rights standards before its adoption into legislation.

B. National reconciliation and the rights of minorities

30. As Myanmar is one of the most diverse countries in the world, with more than 130 ethnic groups, the Special Rapporteur believes that ensuring full respect for the rights of minorities will be essential for national reconciliation and democratic transition. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires States to ensure that persons belonging to minorities fully and effectively exercise all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

31. The Constitution of 2008 entitles the representatives of "national races with suitable population" to participate in the regional and state legislature "mainly, to undertake their national races affairs". The State is obliged to develop, among other things, the language and culture of the national races; promote solidarity and respect among the national races; and promote socioeconomic development of less developed national races.[23] These issues will be critical for any process of national reconciliation to be successful and durable.

32. During her mission, the Special Rapporteur was informed about developments regarding a nationwide ceasefire agreement and the commencement of a political dialogue with various ethnic groups. She notes that ceasefire agreements have been signed between the Government and 14 ethnic armed groups (with the exceptions of the Kachin Independence Army (KIA) and the Ta'ang (Palaung) National Liberation Army). Several informal and formal meetings between the National Ceasefire Coordination Team of 16 ethnic armed groups and the Government Union Peace Working Committee have been held since the Coordination Team was formed in November 2013, which have resulted in two drafts of a nationwide ceasefire agreement. Many in the Government hope that the final text will be signed soon, although several complex issues remain pending, including the question of

[23] Arts. 3, 15, 17 (c) and 22.

federalism. Many ethnic groups appear sceptical of this process and remain distrustful of the Government.

33. The Special Rapporteur therefore believes that abiding by the human rights principles of participation, transparency, justice, accountability, the rule of law, equality and non-discrimination will foster greater confidence in and shared ownership of the peace process and the subsequent political dialogue. This will require greater consultation with, as well as the representation and effective participation of, local communities and civil society. As women have largely been excluded and have not been part of the negotiating teams thus far, this will also require measures to ensure their full participation in all aspects of the process. While assurances have been given to this effect by both the National Ceasefire Coordination Team and the Government, greater progress in this area is needed.

I. Conflict-related and other human rights concerns in ethnic areas

34. The displacement of minorities is one indicator of the degree to which their rights are respected, protected and fulfilled.[24] As of January 2014, there were an estimated 613,600 internally displaced persons in Myanmar: up to 140,000 people in Rakhine State and around 100,000 people in Kachin State. There were also some 200,000 internally displaced persons in the south-east, primarily in Mon, Kayin and Kayah States and Taninthayri Region.[25] A further 120,000 refugees were living in temporary sites along the Thai border — some of whom had been in camps for more than two decades. During her mission, the Special Rapporteur was informed that the conditions were still not conducive to the return of internally displaced persons and refugees, as many still feared for their safety and security and were uncertain about access to land, livelihoods, education and health. While given assurances that returns would be voluntary, on the basis of consultation with those concerned, she reminds the Government that any initiative for return to places of origin must be done with the free, prior and informed consent of those concerned and must involve meaningful consultation with affected individuals and communities, and with humanitarian actors, including the United Nations. The necessary safeguards must be in place to ensure the safety and dignity of those returned, as well as their reintegration into local communities and societies.

35. It has been three years since the resumption of conflict in Kachin and Northern Shan States, and ongoing clashes have resulted in continuing displacement. The Special Rapporteur notes that many internally displaced persons have lived for years in temporary camps. Many with whom she spoke expressed their fervent desire for peace so that they could simply return to their homes. Yet, there was a general fear and concern for their safety and security upon return, with homes and farmland possibly destroyed or riddled with mines. Some noted in particular the lack of access to livelihoods, with many youth turning to drugs. Many were also unaware of developments in the peace process and had been neither informed nor consulted. Thus, greater efforts must be made to inform, involve and consult local communities and/or displaced populations, including about the possibility of return.

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[24] Office of the United Nations High Commissioner for Human Rights (OHCHR), *The Rights of Non-Citizens* (United Nations publication, Sales No. E.07.XIV.2), chap. I.

[25] Office of the United Nations High Commissioner for Refugees (UNHCR), Note on Myanmar, March 2014.

36. In this context, the Special Rapporteur welcomes developments such as the stated intention of the Government to ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, the establishment of a Myanmar mine action centre within the Myanmar Peace Centre, and the signing of agreements with international non-governmental organizations (NGOs) for demining programmes. During her mission, she was also informed about the preparation of a national mine action strategy and various mine risk education campaigns conducted in several border States. Yet, significant progress has not been made in the mapping and locating as well as clearance of landmines, and she encourages greater efforts in this regard.

37. Despite improved international humanitarian access to non-government-controlled areas (where roughly half of the 100,000 displaced by the conflict are living in camps or with host families), access remains limited and there are concerns regarding access to adequate food, water and sanitation, health care and education. It is imperative, therefore, that the United Nations and humanitarian actors be provided with more regular and systematic access to areas outside government control.

38. The Special Rapporteur received information about human rights violations committed by both KIA and the military, including attacks against civilian populations. Allegations were also received regarding violations committed by security forces, including the use of torture during interrogation, the sexual abuse and torture of prisoners, the forced labour and torture of civilians perceived to be sympathetic to KIA, and the rape of women and sexual violence in conflict. She also received allegations of the military forcibly disappearing displaced male Kachin. Additionally, she has received allegations of KIA using child soldiers, forced labour and antipersonnel landmines. These allegations are serious and must be addressed as a matter of priority, with perpetrators held to account. All parties to the conflict must do more to ensure respect for international human rights and humanitarian law.

39. The Special Rapporteur commends the Government's stated zero-tolerance policy for any sexual misconduct involving military personnel; however, in addition to allegations of sexual violence in conflict, she also received allegations of rape by the military in Chin and Kayin States. She raised these issues with the authorities, including the specific case of Sumlut Roi Ja, who was allegedly abducted, raped and held by military forces in Kachin State in October 2011. Noting that a bill addressing violence against women is being drafted with support from the United Nations, she was further informed that cases of violence against women were investigated, with action taken against the perpetrators. Records of such actions were not provided, however. The writ of habeas corpus submitted to the Supreme Court by Sumlut Roi Ja's spouse in January 2012 was rejected on the grounds of insufficient evidence.

40. Like the Kachin, the Chin population are predominantly Christians. Previously, the special procedures had sent a joint communication on alleged violations regarding their right to freedom of religion; forced labour for the construction of monasteries and pagodas; forcible confiscation of land; and forcible or coerced conversions. The Special Rapporteur has subsequently heard that forced or coerced conversions continue to be facilitated by the Government Border Areas National Development Training Schools (or Na Ta La schools) and, apart from the Buddhist indoctrination received in these schools, discrimination recurs, as students are

reportedly guaranteed government positions after graduation only if they are Buddhist.[26] Christians reportedly continue to face difficulties in obtaining permits for the construction of churches and for large religious gatherings. Allegations of arbitrary arrest, detention, ill-treatment and torture against church workers, pastors and missionaries are also of concern.

41. Since the signing of a preliminary ceasefire agreement between the Government and the Karen National Union in January 2012, some forms of human rights violations have noticeably declined, while others remain of serious concern, including attacks against civilians by the military, extrajudicial killings, arbitrary arrest and detention, and ill-treatment and torture of civilians suspected of being associated with an ethnic armed group. Allegations of sexual violence, forced recruitment by the military and restrictions on freedom of movement and trade were also present in some Kayin districts. The number of army facilities has also reportedly increased.[27] Furthermore, cases related to forced labour, land-grabbing, environmental destruction and extortion have been reported in Kayin and Mon States.[28]

42. Since the signing in 2012 of the joint action plan for the prevention of recruitment of children and their discharge and rehabilitation, some 364 children and young persons have been released, including 91 on 1 August 2014. While this is to be welcomed, reports suggest that the situation is not improving as quickly as was envisaged. Child recruitment by the military apparently continues, although at a reduced scale. Access for the United Nations country task force to military sites has improved but remains constrained by the 72-hour notice required. The majority of releases are triggered as a result of the International Labour Organization complaints mechanism or complaints made through the country task force hotline service. The Special Rapporteur is, however, not informed of any children who have been verified and released from the Border Guard Forces, which are under the remit of the joint action plan. The practice of the falsification of age documents also apparently continues unchecked. The limited accountability measures adopted so far have not deterred underage recruitment, despite the fact that it is against the law. An incentive-based quota system in the military reportedly continues to drive the demand for fresh recruits and contributes to underage recruitment.

2. Intercommunal violence

43. In Rakhine State, the Special Rapporteur visited two camps for internally displaced persons around Sittwe that had been established following the violence in 2012, where she gained first-hand impressions of the difficult conditions in which both communities live. Many of the displaced have remained in the camps for two years and lack adequate access to basic services and to livelihoods. She found the situation deplorable, but observed that the conditions in the Rohingya camp were undeniably worse. Restrictions on the freedom of movement severely affected basic rights, in particular health services and access to livelihoods, food, water and

[26] Chin Human Rights Organization, "Thematic briefing: the state of freedom of religion or belief for Chin in Burma/Myanmar 2013", 21 January 2014.

[27] Karen Human Rights Group, "Truce or Transition? Trends in human rights abuse and local response in Southeast Myanmar since the 2012 ceasefire", 13 May 2014.

[28] Human Rights Foundation of Mondland-Burma, "In pursuit of justice: reflections on the past and hopes for the future of Burma", 8 July 2014.

sanitation, and education. While the local health authorities have deployed additional medical professionals and provided mobile clinics, the Special Rapporteur received disturbing reports of deaths in camps owing to the lack of access to emergency medical assistance and owing to preventable, chronic or pregnancy-related conditions. With the forced departure of international NGOs providing critical health services and humanitarian organizations not yet operating at full capacity after the attacks on the United Nations and humanitarian organizations in March 2014, there is now limited access and capacity to work with the Government in providing services and to undertake monitoring, including data collection. While Médecins sans frontières was invited back by the Government in July, the memorandum of understanding necessary to resume operations was signed only in September owing to reported community resistance. The severe health situation must be addressed immediately. The Government must meet its obligations to provide adequate services and ensure access and security for those humanitarian organizations that can provide lifesaving assistance.

44. The Special Rapporteur is concerned about the prevalence of inaccurate rumours and false information concerning the conditions of camps, the quality of assistance provided to one community over the other, and the perceived intentions and behaviours of members of different communities, which subsequently become accepted as reality. More must be done to stop this type of misinformation, which serves only to heighten tensions and hostility and to increase the sense of discriminatory treatment. The conditions of both camps and the situation of both communities must be accurately reflected and seen for what they are.

45. The Special Rapporteur recognizes that Rakhine State is one of the poorest in Myanmar and has long suffered from neglect and underdevelopment. She has personally seen how some in the Rakhine Buddhist community live with a lack of facilities and a minimum of basic services. She was made aware of the sense of grievance and perceived discrimination by the Rakhine Buddhist community, which must also be understood and acknowledged and its concerns taken into account when trying to address the underlying causes of the intercommunal violence. The Government should do more to address the long-standing social and economic development challenges in Rakhine State, including through greater cooperation with the international community.

46. Yet, the situation must be seen accurately. By virtue of its lack of legal status, the Rohingya community continues to face systematic discrimination, which includes restrictions on the freedom of movement, on access to land, food, water, education and health care, and on marriages and birth registration. The human rights violations faced by the Rohingya community have been regularly documented by successive Special Rapporteurs on the situation of human rights in Myanmar. These include summary executions, enforced disappearances, torture, forced labour and forced displacements, as well as rape and other forms of sexual violence. These allegations should be investigated and addressed, with perpetrators held to account.

47. The difficult operational environment for international NGOs and the United Nations is also of concern — with continuing reports of threats, intimidation and attacks against staff. Among the Rakhine Buddhist community and even at various levels of government, there is a perception of bias and discrimination in the assistance that has been provided over many years. The Special Rapporteur believes that more must be done to change this perception and that this is a shared

responsibility of all concerned. International organizations should continue to abide by humanitarian principles, and the Government must meet its obligations regarding safety and security, including holding those responsible for the attacks against the premises of the international NGOs and United Nations in March 2014 to account in line with its own public assurances. The Special Rapporteur was informed that 12 persons had been arrested in April 2014 in that regard and that investigations were ongoing, but she has no further details on this.

48. The Special Rapporteur is also concerned about the status of the three international NGO staff who were arrested in connection with the violence in 2012 and remain in detention. She believes that they were arrested under spurious charges and have been denied fair trial and due process rights. She calls for their immediate release.

49. The situation also has regional dimensions: since the violence in June 2012, some 87,000 people (mainly Rohingya, but also some Bangladeshis among them) are estimated to have departed by sea from the Myanmar-Bangladesh border area — often in rickety boats in treacherous conditions, destined for such countries as Australia, Indonesia, Malaysia and Thailand.[29] In fact, UNHCR notes over 20,000 irregular maritime departures in the first half of 2014 alone.

50. Given the many serious concerns, continued engagement by the Government in finding both immediate and long-term solutions is urgently required. Measures aimed at furthering constructive cooperation with the international community will also be key. In discussing possible solutions with the Rakhine State government, the Special Rapporteur was provided a brief overview of the Rakhine State action plan but was not able to actually study the document. While she was informed about institutional and personnel changes and additional service provisions, with the exception of interfaith dialogues, the plan seemed to lack steps to reduce tensions and promote reconciliation between the two communities. She is also concerned that the Government's plan for long-term peaceful coexistence would likely result in a permanent segregation of the two communities.

51. Issues concerning terminology and citizenship are particularly sensitive. The Special Rapporteur was repeatedly reminded not to use the term "Rohingya", as it was not recognized by the Government. In this regard, she notes that the rights of minorities to self-identify on the basis of their national, ethnic, religious and linguistic characteristics is related to the obligation of States to ensure non-discrimination against individuals and groups — a central principle of international human rights law. Various human rights treaty bodies and intergovernmental bodies, including the Committee on the Rights of the Child, the Human Rights Council and the General Assembly, use the term "Rohingya", because this is how that minority group chooses to identify itself, and that choice and self-identity must be respected.

52. The Special Rapporteur was also repeatedly told that citizenship remained the central issue and a possible solution. She was informed about the government-led pilot exercise aimed at verifying the citizenship status of Muslims in a camp for internally displaced persons in Myebon Township. Those participating would have their applications and documents examined to determine eligibility for citizenship under the Citizenship Law of 1982, with the eventual granting of citizenship if approved by a government board. While the final outcome of this process is not yet

[29] UNCHR, "South-East Asia: irregular maritime movements, January-June 2014" August 2014.

known, she was informed that some Rohingya had reportedly participated in the programme voluntarily. Yet, concerns remain about the designation of ethnicity (reportedly "Bengali", "Kaman" or nothing at all) on the forms and a lack of transparency and information about the exercise. Many internally displaced persons are reportedly unclear about and distrustful of the process. In addition, there are no clear timelines provided for each step of the process, including the possible granting of citizenship.

53. In discussing the question of citizenship, the Special Rapporteur was repeatedly reminded that the rule of law in Myanmar should be respected. In this regard, strong opposition was voiced by many against any review or reform of the Citizenship Law of 1982. Yet, laws by nature are forever evolving. As the reform process in Myanmar has demonstrated, laws can and should be amended whenever there are deficiencies and they are not in line with international standards. The Citizenship Law of 1982 is in contravention of international law and Myanmar's obligations as a party to the Convention of the Elimination of All Forms of Discrimination against Women (art. 9) and the Convention on the Rights of the Child (art. 7), as well as the overarching provisions of the Universal Declaration of Human Rights (art. 15); thus it should not be exempt from reform.

54. The Special Rapporteur also visited Mandalay and saw the sites where other recent incidents of communal violence had occurred. She was given detailed information on the actions taken by the Government to quell the violence and address the crimes that had occurred, which contrasted with the information received from civil society actors alleging initial State inaction in stopping the violence and the lack of transparency in the investigations conducted and arrests made. Suggestions were also made that the violence had been deliberately timed by possible organized criminal instigators to destabilize or undermine political activities of the opposition. The Special Rapporteur is not in a position to verify these allegations.

55. At meetings with various interfaith groups and civil society actors, Myanmar's history of religious pluralism and tolerance was repeatedly highlighted. Yet the violence in Mandalay and previously in other parts of the country demonstrate that amicable relations and harmony between different religious and ethnic communities can never be taken for granted. The recurring outbreak of intercommunal violence reveals a growing antagonism against Muslim and other minority communities. In this regard, the Special Rapporteur is encouraged by the efforts of local groups established in Mandalay to proactively combat this trend. She is concerned at the spread of hate speech and incitement to violence, discrimination and hostility in the media and on the Internet, which have fuelled and triggered further violence. More must be done to counter this negative trend. A comprehensive series of measures is needed as a priority, encompassing the review of existing legislation to prohibit and combat hate speech, and, if necessary, the adoption of additional measures — but these must comply with international human rights standards, and be carefully construed and applied by the judiciary so as not to excessively limit the freedom of expression. New legislation or stricter enforcement of existing measures is never a panacea in quelling hate speech, however. There should be an accompanying set of policy measures to address the root causes and underlying grievances, foster dialogue and bring about a change in mindset and discourse. This should include awareness-raising measures, as well as support for intercommunal and interfaith cooperation initiatives. The role of the media and the Press Council is important in

this regard. Additionally, political leaders and public officials have a special responsibility, and in that respect, President Thein Sein's clear and public call against hate speech and incitement in early July is welcomed. Others in positions of influence should also clearly speak out against hate speech. The Government is encouraged to fully utilize the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The Plan of Action sets out various measures to prevent and respond to incidents of incitement to hatred while upholding the rights to freedom of opinion and expression, freedom of religion or belief and other freedoms.

C. Development, economic, social and cultural rights

56. Land rights issues, in particular land-grabbing and land confiscation, as well as forced eviction, remain a major challenge. Cases of land-grabbing, environmental destruction and extortion have been reported throughout the country. The majority of complaints received by the Myanmar National Human Rights Commission relate to land rights, and various parliamentary commissions have been established to address the issue.

57. These are complex issues requiring reforms to the legislative and institutional framework governing land use and management and the management and sharing of resources, as well as land tenure. Currently, the legal framework, specifically article 37 of the Constitution, which provides that the State is the ultimate owner of all lands and natural resources, and section 29 of the Farmland Law, which allows the State to confiscate land on the basis of national interest, combined with the fact that the vast majority of land users have no titles to the land that they occupy and cultivate, leaves people vulnerable to forced evictions and loss of livelihood, with limited access to effective legal remedies.

58. In the light of allegations regarding the excessive use of force by the police, as well as the arbitrary arrest and prosecution of those peacefully protesting forced evictions and land confiscations, a change in the response to public protests on land issues is needed, as well as in the handling of complaints received by various bodies. Priority attention should be given to these issues in accordance with human rights standards, including access to appropriate remedies.

59. The Special Rapporteur was also struck by the information received regarding the impact of large-scale development projects, particularly on vulnerable groups, such as the rural poor, displaced persons and returnees, ethnic communities and children, as well as women in vulnerable situations. It is therefore essential that environmental and social impact assessments always be undertaken and recommendations implemented, that relevant information about development projects be made widely available and accessible, and that the communities concerned be able to participate actively, freely and meaningfully in the assessment and analysis, design and planning, implementation, monitoring and evaluation of such projects.

60. The Special Rapporteur welcomes the approval of Myanmar as an official "candidate" country for the Extractive Industries Transparency Initiative, a global standard for ensuring the transparency of payments related to natural resources. Joining this international group has been a public goal of the Government, in order

to increase transparency in this sector and improve the way in which oil, gas and mineral resources are to be governed.

61. The Special Rapporteur also welcomes the Government's continued commitment to development and the realization of economic, social and cultural rights. She notes progress in this area, including with respect to the health and education sectors, and encourages greater investment in the public service sector generally in order to ensure affordable and accessible health care, education and social security coverage in line with Myanmar's international obligations.

62. The coming years present an opportunity for the Government to proactively manage development and investment processes so as to ensure a rights-based and people-centred form of sustainable development, inclusive growth, poverty reduction and equitable resource-sharing through further reforms to the relevant legislative, institutional and administrative frameworks, as well as a change in mindset and practice. This should be guided by relevant key international standards, including the Guiding Principles on Business and Human Rights and the basic principles and guidelines on development-based evictions and displacement.

D. Rule of law and the administration of justice

63. The current Constitution of Myanmar was adopted following a referendum in 2008. Its adoption was widely criticized for being fundamentally flawed, in terms of both substance and process. Current attempts at constitutional reform present opportunities to address some of these criticisms. It is notable that one of the key priorities reportedly identified from various consultation exercises on this issue was a change to the currently onerous procedure for amending the Constitution.

64. Article 436 provides for the manner in which proposed amendments to the Constitution are to be approved. One study has pointed out that no other constitution in the world has an amendment procedure that requires the approval of more than 75 per cent of the members of both parliamentary chambers or allows for the military to have veto power over constitutional amendments.[30]

65. The previous Special Rapporteur has repeatedly called for the amendment of the Constitution to be in line with international standards (see A/HRC/22/58, A/68/397 and A/HRC/25/64). In order for the military to be subject to the rule of law and to civilian control, amendments must be made to articles 20 (b), 40 (c), 74, 109 (b), 141 (b), 232 (b), 293 (b), 343 (b) and 445. While the majority of these provisions give broad powers and responsibilities to the military, a wide interpretation of article 445 further guarantees that the military can never be held to account for past and present human rights violations. The President in turn has legal immunity for any improper exercise of powers and can be made accountable only through impeachment under article 215.

66. Provisions on fundamental rights are found in chapter VIII of the Constitution, focusing generally on the rights of citizens, although at times there are references to "any person".[31] The rights in chapter VIII are frequently qualified by the phrase

[30] Bingham Centre for the Rule of Law, "Constitutional reform in Myanmar: priorities and prospects for amendment", January 2014.

[31] Many of the human rights accorded to citizens in the Constitution are, under the International Covenant on Civil and Political Rights, accorded to all persons.

"in accordance with law" or similar language, which appears to have the potential to negate part or all of the right in question. The limitations on rights are drawn far too widely in almost all cases and are very vague and subjective.[32] Additionally, article 382 states that "the rights given in this Chapter shall be restricted or revoked through enactment to law" in order for the Defence Forces personnel or members of the armed forces "to carry out peace and security". This goes considerably beyond the limitations permitted by human rights law, as it would appear to allow non-derogable rights to be restricted or revoked in a state of emergency, and possibly in other circumstances.[33] Similarly, some of the duties established in the Constitution are problematic, since they would appear to restrict the rights of individuals on subjective grounds. A possible interpretation of article 383, for example, could mean that anyone who criticizes the Government or government policy or criticizes individuals in the Government or the military could be accused of violating "the duty to uphold (b) non-disintegration of national solidarity". The Constitution is noticeably silent on the prohibition of torture, inhuman or degrading treatment or punishment, as well as the presumption of innocence until proved guilty.

67. While article 11 (a) provides for the separation of powers, the Constitution ensures that much of the power is concentrated within the presidency and, to a large extent, rests with the Commander-in-Chief, who is arguably even more powerful than the President under specific circumstances.[34] Article 19 prescribes the following basic judicial principles: (a) to administer justice independently according to the law; (b) to dispense justice in open court unless otherwise prohibited by the law; and (c) to guarantee in all cases the right of defence and the right of appeal under the law; while article 21 guarantees the right of every citizen to equality, liberty and justice. However, there are continuing claims that access to justice is often denied and persistent allegations of interference in judicial decision-making by the Executive or senior judicial authorities, as well as a high level of corruption in the judiciary.

68. Furthermore, as the Special Rapporteur has been informed, some trials are still conducted behind closed doors, without legal representation or proof or with defective evidence, and pursuant to arbitrary decisions of judges. In addition, defence lawyers face difficulties ranging from not being informed of the dates and venues of the trials to not being allowed to meet the detainees in private in advance of the trials.

69. The Special Rapporteur is concerned at persistent reports of torture during interrogation. She met with two prisoners who had been convicted under the Explosive Substances Act and the Unlawful Associations Act. Both alleged that they had been interrogated continuously for several days and subjected to torture and ill-treatment. While one stated that he had been forced to commit homosexual acts with another male prisoner, both alleged that photographic evidence showing them handling explosives had been fabricated. These cases are similar to information received regarding the arbitrary arrest and torture during interrogation by the military of Kachin men accused of belonging to KIA. She had also received reports of Rohingya detainees, male and female, being tortured and subjected to

[32] Such as the limitations in arts. 354, 365 and 376.

[33] See art. 4, para. 2, of the International Covenant on Civil and Political Rights.

[34] Yash Ghai, "The 2008 Myanmar Constitution: analysis and assessment", 2008.

ill-treatment. While the authorities professed to have no knowledge of these cases or information on the use of torture or ill-treatment during interrogation, the Special Rapporteur believes that these allegations must be promptly, effectively and impartially investigated; responsible law enforcement personnel must be held to account.

70. The Special Rapporteur commends the 15 amnesties granted to prisoners since the establishment of the new Government. She notes that the most recent presidential pardon, of 30 December 2013 (which released more than 41 prisoners), included those convicted under various laws, such as the Peaceful Assembly and Peaceful Procession Act, the Unlawful Associations Act, sections 122, 124 (a) and 505 of the Penal Code, and the Emergency Provisions Act of 1950. However, there are several remaining political prisoners who did not benefit from these amnesties or were recently arrested under the same legislation. The Special Rapporteur raised these cases with the authorities, including that of U Tun Aung and U Kyaw Hla Aung, and called for their review and the release of the prisoners as a matter of priority. The Special Rapporteur also calls upon the authorities to remove the conditions attached to the previous releases and any remaining restrictions placed on those released.

71. In that respect, the Special Rapporteur welcomed information that the prisoner review committee would continue to hold regular monthly meetings. She encourages the Government to continue working with this important body in order to release all remaining political prisoners and to fulfil President Thein Sein's pledge. To that end, she encourages the Government to closely cooperate with civil society in current efforts to develop a definition of "political prisoner".

72. While the scope and pace of the legislative reform process have been encouraging, many concerns remain regarding the lack of consultation on draft laws, with some laws drafted in secret, published at a late stage with little time for comments or with no information on where comments should be submitted. Greater coordination, transparency, consistency and clarity in the process by which laws are reviewed, consulted and drafted is vitally needed. Clear timelines should be given to permit broad consultation on and the proper consideration of draft laws. Additionally, greater efforts should be made to raise awareness of new laws among the general public, beyond their publication in newspapers and journals.

73. The Special Rapporteur is concerned at the current legislative package on the protection of race and religion, which includes four draft bills, on interfaith marriage, religious conversion, polygamy and population control. She is concerned that some of these bills are incompatible with international treaties, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, to which Myanmar is a party. She supports the many calls for the withdrawal of the draft laws on religious conversion and on interfaith marriage.

74. The Special Rapporteur welcomes the adoption and signing of the new Myanmar National Human Rights Commission Law, in April 2014. She hopes for an open, transparent and consultative process in the selection and appointment of the new commissioners leading to a newly constituted body that is independent, effective and pluralistic and representative of the wide spectrum of Myanmar's multi-ethnic community and people. While noting that the law's definition of human rights includes those contained in the Universal Declaration of Human Rights, she

remains concerned at the inclusion of a specific reference to the rights of citizens as enshrined in the Constitution, to the exclusion of non-citizens. She encourages close cooperation with OHCHR and others in developing and strengthening the Commission's capacity to fulfil its important role and duties in line with the Paris Principles.

75. The Special Rapporteur notes with concern that the Constitution and laws of Myanmar consistently provide for most rights to be accorded only to citizens. In international law, only exceptional distinctions can be made between citizens and non-citizens and only if they serve a legitimate State objective and are proportional to the achievement of that objective. The Committee on the Elimination of Racial Discrimination had stated, "[A]lthough some ... rights, such as the right to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons".[35] Non-citizens should therefore be accorded, for example, the rights to freedom from arbitrary deprivation of life, torture or cruel, inhuman or degrading treatment or punishment, slavery, arbitrary or unlawful arrest, unfair trial, invasions of privacy, refoulement that may result in torture, forced labour, child labour and violations of humanitarian law. They are also entitled to the right to marry; protection as children; freedom of expression, peaceful association and assembly; equality; freedom of religion and belief; social, cultural and economic rights; labour rights; and consular protection. In particular, States should take effective measures to ensure that all non-citizens enjoy the right to acquire citizenship without discrimination.[36]

V. Conclusions

76. **Myanmar is undergoing an important transition, and the far-reaching reforms have dramatically transformed the political, economic, social and human rights landscape in the three years since the establishment of the new Government. This must be recognized and commended. Yet, there are signs of possible backtracking, which, if not addressed, could undermine Myanmar's efforts to take its rightful place as a member of the international community that respects and protects human rights. Thus, human rights should be fully mainstreamed into Myanmar's institutional, legal and policy framework, and a culture of respect of human rights must be engendered among all State institutions and the public at large. Myanmar needs further encouragement and understanding in order to address these challenges and continue on the path of reform. It also needs the continued engagement of the international community, including through policy dialogue, concrete programmes and practical action. The Special Rapporteur's observations and recommendations will, it is to be hoped, be taken in this spirit and contribute to the efforts Myanmar has undertaken in its path towards respecting, protecting and promoting human rights and achieving democratization, national reconciliation and development.**

[35] Committee on the Elimination of Racial Discrimination general recommendation No. 30 (2004) on discrimination against non-citizens, para. 3.

[36] OHCHR, see note 24 above, chaps. I and II.B.

VI. Recommendations

77. **The following recommendations are in line with the Special Rapporteur's preliminary key areas of focus.**

78. **To ensure that elections are transparent, inclusive, participatory, free and fair, the Government should implement an electoral framework and process in line with international standards, with guarantees for the rights to freedom of expression and opinion and of assembly and association; and amend relevant laws and regulations affecting the rights to vote, campaign and stand for elections, ensuring no discrimination between different citizenship categories and using objective and reasonable criteria for candidates running for public office.**

79. **To ensure an enabling environment for civil society and the freedoms of expression, assembly and association, the Government should:**

(a) **Promptly investigate and redress threats, acts of intimidation and harassment against media and civil society actors;**

(b) **Cease the arbitrary arrests and detention as well as disproportionate sentences against civil society actors, farmers and other human rights defenders and activists as well as media professionals;**

(c) **Resolve disputes relating to the media through the Interim Press Council;**

(d) **Review and further amend the Peaceful Assembly and Peaceful Procession Act and revise the draft Law relating to Registration of Organizations in line with international norms and standards;**

(e) **Immediately and unconditionally release all political prisoners and those arbitrarily detained, including U Tun Aung and U Kyaw Hla Aung, ensuring that they are not subject to conditions that make it difficult for them to find work, receive benefits and reintegrate into society.**

80. **Ending discrimination against and ensuring the protection of the rights of minorities is essential for national reconciliation. This includes ensuring respect for the freedom of religion or belief and the enjoyment of cultural rights.**

81. **Regarding conflict-related and other human rights concerns in ethnic areas, the Government should:**

(a) **Ensure greater consultation with and the full and effective participation of civil society, women and affected communities, notably representatives of internally displaced persons and refugees, in the peace process and any subsequent political dialogue;**

(b) **Ensure that any national ceasefire agreement and future peace processes include monitoring aimed at the protection of human rights;**

(c) **Establish a national process and mechanism for internally displaced persons/refugee returns, ensuring close cooperation and meaningful consultation with all relevant stakeholders so that initiatives for return to places of origin are carried out with their free, prior and informed consent and ensure their safety and dignity and their reintegration into local communities;**

(d) Ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction; and finalize the national mine action strategy in full consultation with concerned stakeholders and with the assistance of the international community;

(e) Promptly investigate and prosecute alleged human rights violations committed by the military and other armed groups; and make information on cases and outcomes publicly available;

(f) Investigate all allegations of the recruitment or use of child soldiers; continue and intensify the implementation of existing action plans, including the release of child soldiers and their reintegration; and ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

82. **Regarding Rakhine State, the Government should:**

(a) Immediately address the critical health situation in camps for internally displaced person and isolated locations, in particular for those comparatively underserved, namely, the Rohingya, including by increasing the authorities' capacity to provide adequate health services;

(b) Provide adequate basic services, including in camps for internally displaced persons, and remove any restrictions against the Rohingya on freedom of movement and other rights so as to ensure access to livelihoods, food, water and sanitation, and education;

(c) Investigate and prosecute those responsible for human rights violations perpetrated against the Rohingya community;

(d) Respect the Rohingyas' as well as other minorities' right to self-identification in compliance with international human rights standards, including by refraining from directing international actors to adopt positions that run counter to such standards;

(e) Immediately release the international NGO staff members imprisoned in connection with the violence of June 2012;

(f) Address the long-standing social and economic development challenges in Rakhine State through a human-rights-based approach, ensuring the participation of affected communities, including through greater cooperation with the international community;

(g) Develop reconciliation measures as a necessary step to rebuild integrated communities for inclusion in the Rakhine State Action Plan.

83. **More broadly, the Government should utilize the Rabat Plan of Action to develop a holistic set of measures to address the root causes of discrimination against racial and religious minorities, as well as intercommunal tensions and violence, and prevent and respond to incidents of incitement to hatred while upholding internationally recognized human rights.**

84. **To ensure a rights-based and people-centred form of sustainable development and the protection of economic, social and cultural rights, the Government should:**

(a) **Ensure that environmental and social impact assessments of large-scale development projects are always undertaken, implement their recommendations and make all relevant information publicly accessible;**

(b) **Undertake further reforms of legislation and institutional frameworks governing land use and management, resource management and -sharing, and land tenure, in line with international standards.**

85. **In order to strengthen the rule of law, the Government and Parliament should:**

(a) **Continue to review and revise legislation to be in compliance with international human rights standards;**

(b) **Establish a national legislative reform process with clear timelines and greater coordination, transparency, consistency and clarity in the review, consultation and drafting of laws;**

(c) **Ensure greater involvement by civil society and relevant stakeholders in the development of legislation, including through inclusive public consultation processes; and develop greater awareness-raising measures for draft and newly promulgated laws.**

86. **In addition, Parliament should amend the Constitution to ensure that human rights are appropriately accorded to all persons in Myanmar, provide for the prohibition of torture, inhuman or degrading treatment or punishment and the presumption of innocence until proven guilty, and ensure that the military is subject to civilian rule and to the rule of law.**

87. **The Government should further:**

(a) **Effectively and promptly investigate allegations of torture and ill-treatment in detention; and ensure respect for the rights of those accused, including due process and fair trial rights;**

(b) **Expedite the ratification of the Convention against Torture and the Optional Protocol thereto;**

(c) **Ensure that no individual who cooperates with the United Nations suffers reprisals and that any allegations are promptly investigated and redress is provided;**

(d) **Engage closely with the human rights system, including the treaty bodies, the universal periodic review and thematic special procedures;**

(e) **Expedite the establishment of an OHCHR office in Myanmar with a full mandate.**

88. **The international community should remain constructively and critically engaged on the human rights situation and support Myanmar, including through policy dialogue and technical assistance, in further reforms that fulfil its human rights obligations.**

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Advancement of women

Report of the Peacebuilding Commission

Report of the Secretary-General on the Peacebuilding Fund

Follow-up to the outcome of the Millennium Summit

Strengthening of the United Nations system

Peacebuilding in the aftermath of conflict

Report of the Secretary-General

I. Introduction

1. The present report is submitted pursuant to the statement by the President of the Security Council (S/PRST/2012/29), in which the Council requested me to report, no later than December 2014, on further progress in United Nations peacebuilding efforts in the aftermath of conflict, including the issue of women's participation in peacebuilding, with particular emphasis on the impact on the ground, including lessons learned from United Nations peacebuilding activities in country-specific contexts. The report builds on my earlier reports on peacebuilding in the aftermath of conflict (A/63/881-S/2009/304, A/64/866-S/2010/386 and A/67/499-S/2012/746) as well as on women's participation in peacebuilding (A/65/354-S/2010/466) and reflects on the elements contained in the aforementioned statement of the President.

2. The Security Council and the General Assembly have long recognized the centrality of peacebuilding to United Nations political, security and developmental efforts in countries emerging from conflict, as well as the complexity of peacebuilding challenges. Our understanding of peacebuilding has come a long way since the creation of the United Nations peacebuilding architecture in 2005. We have become increasingly cognizant that peacebuilding is inherently a political exercise that depends on political leadership and demands sustained international political accompaniment, as well as a favourable regional environment.

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3. Peacebuilding represents the sum of our efforts to create the foundations for sustained peace after conflict. It is carried out by peacekeeping operations, special political missions and United Nations country teams, consisting of agencies, funds and programmes. It requires firm and continued support from Member States, and lies at the very heart of our ambitions in countries emerging from conflict. Avoiding the relapse into war was the primary motivation for the creation of the peacebuilding architecture. As mandated by the General Assembly and the Security Council, Member States will review the peacebuilding architecture in 2015. I hope that this review will shed light on how we, collectively, can better assist States and societies to recover from conflict and avoid the calamitous return to violence.

4. In my last report (A/67/499-S/2012/746), I identified three key priority directions for the engagement of the United Nations system in peacebuilding, namely inclusivity, institution-building and sustained international support and mutual accountability. These priority areas are intimately linked and form the core of our efforts to promote long-term peace and stability and avoid the recurrence of violent conflicts. Post-conflict institutions need to be rooted in inclusive political agreements and systems that make possible meaningful participation by wide-ranging social groups. Political processes and institution-building require sustained and long-term international political, financial and technical support.

5. Building political consensus and social cohesion requires steady investment, as well as flexible and agile responses to immediate needs. Peace agreements present a critical opportunity for achieving consensus about the key principles on which institution-building should rest. The political agreements that underlie transition processes often require strong international support and a favourable regional environment. The Peacebuilding Commission, which is mandated to promote the coherence of international efforts in support of post-conflict countries, continues to play a vital role in facilitating the constructive engagement of international and regional stakeholders.

6. Advancing the extension of State authority and rebuilding State institutions in the aftermath of conflict is crucial to the sustainability of peace. The Security Council has recognized the centrality of these issues, including them as priority tasks in the mandates of numerous peacekeeping and special political missions. The development of legitimate, accountable and effective institutions that deliver services equitably is essential for countries to respond to the needs of the population and create non-violent channels to manage conflicts. Security sector and rule of law institutions deserve particular attention as the organs responsible for the protection of the population and the legitimate defence of State institutions.

7. Implementing these priorities remains an ongoing challenge. Peacekeeping and special political missions and the different agencies, funds and programmes that support the development of critical post-conflict institutions still face difficulties finding the necessary resources. While much of the capacity for security interventions and political facilitation is provided as part of Security Council mandates, the capabilities and resources required for institution-building are often absent or slow to arrive, leaving political transitions frail and unsupported. Women's participation in peacebuilding is often underfunded, undermining their contribution to stability and recovery. The Peacebuilding Fund partly addresses this gap in the short term by providing quick funding for critical institution-building, political dialogue and rule of law initiatives. Ensuring the necessary longer-term and larger-scale support, however, remains challenging.

II. Progress update

8. In the two years since my last report, the United Nations has made significant gains in assisting countries to consolidate peace after conflict despite far-reaching challenges. A number of countries, including Côte d'Ivoire, Guinea and Tunisia, which are recovering from recent periods of violent conflict or political crisis, are now developing more stable institutions and more inclusive political systems. The closure of the United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL) and the Organization's transition to a country team-only presence at the end of March 2014 underscores the progress achieved. The eastern Democratic Republic of the Congo and Somalia, among others, are starting to emerge from decades of violence and instability. Yet, they face immense challenges developing institutions and achieving social cohesion. At the same time, the international community continues to grapple with relapses into violent conflict in the Central African Republic and South Sudan.

9. Sierra Leone's steady progress in consolidating peace since its civil war ended in 2002 has enabled the country to focus on sustainable development, thereby solidifying more than a decade of increasing stability. During this period, successive United Nations missions and the country team adopted an integrated approach around a joint strategy in support of national efforts. This was bolstered by collective Member State support and improved relations with neighbouring countries. The Organization's strong partnership with successive Governments and the people of Sierra Leone made possible the withdrawal of UNIPSIL and the assumption of greater responsibility by the Government.

10. The United Nations contributed broad and multifaceted support to Sierra Leone's transition. The inter-party dialogue organized by UNIPSIL, with strong backing from the Peacebuilding Commission, reinforced confidence in the country's political system by helping to maintain a level playing field and secure the participation of all political parties in the 2012 elections. Likewise, the United Nations also supported institutions, such as the All Political Parties Women's Association, whose involvement boosted women's participation and increased popular trust in the process. Sierra Leone has successfully conducted three peaceful and credible elections since emerging from war, anchoring democratic institutions and inclusive politics.

11. Various United Nations entities also assisted with the creation of key Sierra Leonean institutions, including the National Human Rights Commission, the National Electoral Commission, the Anti-Corruption Commission and the ombudsman's office. These institutions have contributed to the legitimacy of the State and its public accountability. The National Human Rights Commission, for instance, investigates complaints and initiates inquiries, such as its notable probe into alleged gross violations of human rights in Bumbuna, Tonkolili district, in 2012. The United Nations also assisted the Government and national institutions in tackling longer-term challenges, including management of natural resources, youth unemployment, security sector reform and conventional weapons and ammunition management.

12. Significant challenges lie ahead for Sierra Leone, illustrating the need for sustained support, including from the Peacebuilding Commission. The United Nations, with financial backing from the Peacebuilding Fund, will continue to

collaborate with the Government of Sierra Leone on its constitutional review, security sector reform and the strengthening of human rights institutions, among other issues. In addition, Sierra Leone's mutual accountability framework, created in accordance with the New Deal for Engagement in Fragile States, provides a mechanism for aligning donors in support of government priorities, strengthening national ownership and the coherence of international support.

13. Sierra Leone's progress stands in stark contrast to the tragic relapses into violence that we have witnessed in several countries, despite the presence of United Nations peace operations and extensive international efforts. Lessons must be learned from the experience in South Sudan, where the United Nations Mission in South Sudan (UNMISS) was mandated to consolidate peace and security in the newly independent country. In establishing the new Mission, the Security Council, in its resolutions 1996 (2011) and 2057 (2012), stressed the importance of supporting national peacebuilding priorities and requested UNMISS to provide a plan for United Nations-system support to specific peacebuilding tasks. A United Nations peacebuilding support plan was aligned to the South Sudan Development Plan, using the New Deal Peacebuilding and Statebuilding Goals as a framework. There were visible gains in creating and strengthening public institutions and processes in the first year and a half following South Sudan's independence. Progress was also achieved towards transforming its national police into a more professional force. The Mission used its good offices to significant effect to help the Government address emerging threats, including from inter-communal violence and conflicts along the country's borders, as well as from landmines and explosive remnants of war.

14. Despite these advances, significant gaps in the development of political and security institutions remained. Major outbreaks of violence and the abrupt contraction of State revenues in 2012, following the dispute with the Sudan over oil exports, slowed progress and impeded the efforts of the United Nations and the broader international community to support the extension of State authority and the expansion of service delivery. Infighting among the political elite, allegations of large-scale corruption and incidents of violent abuse by undisciplined elements of the national security forces undermined trust in the political leadership. The severe shortfall in State resources and continued tension with the Sudan undermined plans to demobilize and reintegrate former fighters, while national security forces expanded as regional rebellions were resolved by integrating armed groups into the Sudan People's Liberation Army. Notwithstanding international efforts, the country's leaders failed to broaden the political space and dialogue, conduct wide consultation on a national constitution, or ensure a separation of the army from the ruling political party.

15. Political competition, which involved historical disputes and struggles for control of State resources, led to a split within the military and police forces and culminated in the resumption of violent conflict late in 2013. This conflict escalated with a speed, scope and scale that the United Nations and others did not anticipate. The intensification of violence, particularly targeted killings, further created deep ethnic and regional cleavages, which have complicated the search for a settlement. Gains in institutions development were largely lost when the power struggle spiralled out of control and led the country back into a devastating conflict.

16. Although recent developments in South Sudan call for deeper, long-term reflection by the international community, a few preliminary conclusions can be drawn. First, there was a need for greater political encouragement, incentives and pressure to promote advances in the critical areas that could ensure the non-violent management of political tensions. Secondly, South Sudan illustrates the challenges that nationally led peacebuilding strategies and priorities face in countries where deep political divisions persist and control of the State is contested. In such cases, support for nationally led initiatives can limit the impact and range of approaches and strategies. Thirdly, United Nations missions and country teams must adapt their peacebuilding approaches and strategies more flexibly in response to changes in the political environment. Lastly, technical and programmatic support for institution-building needs to be grounded in strong and effective political agreements as well as measures to build social cohesion and ensure the non-violent management of political tensions. Political settlements also need sustained international accompaniment to reinforce adherence.

17. The relapse into violent conflict in the Central African Republic highlights similar issues and underscores the importance of the three priority areas outlined in my last report, although unlike the state of affairs in South Sudan, sustained international support was lacking. Despite several national dialogues and extensive external political facilitation, the State's political institutions remained fragile and lacked inclusivity. The north-east of the country was chronically excluded from political participation. At many levels, the State remained characterized by corrupt and predatory behaviour. Government institutions, particularly outside the capital, have been either non-existent or extremely weak, making violent attempts to gain access to government resources and State power feasible.

18. Successive United Nations missions and the country team received limited support for efforts to support the development of the State's institutional capacity and improve mechanisms of governance. The limited support was compounded by fragmented interventions and the absence of a strong and coherent political framework for their implementation. The initiatives aimed at security sector reform and disarmament, demobilization and reintegration from 2010 to 2012 were not accompanied by sustained commitment from different armed groups and successive national Governments. The lack of sustained commitment was compounded by fragmented security sector interventions from international, regional and subregional actors, which were inadequately grounded in a national vision for State reform. Successive attempts at disarmament, demobilization and reintegration lacked sufficient funding and political support as well as approaches better suited to the political context.

19. New opportunities have been created with the appointment of transitional authorities and the engagement of regional actors. In order to avoid replicating the shortfalls of past attempts to promote long-term solutions, cohesion among international and subregional interventions will remain particularly important. In parts of the country, the deployment of peacekeepers has provided a measure of security. This window of opportunity needs to be seized upon to build a more viable political consensus and more effective and accountable State, security and public institutions, which are essential to protect the rights of citizens, perform basic State functions and defend the State against violent challenges.

20. My Rights Up Front initiative to prevent and end serious violations of international human rights and humanitarian law has guided the United Nations responses in the Central African Republic and South Sudan following the emergence or relapse of violent conflict. The initiative aims to prevent serious violations, but where it is too late to do so, it focuses on the protection of civilians. Human rights violations are good indicators of worse things to come. When mass atrocities are allowed to occur, they can create cycles of violence and long-term animosities, presenting serious obstacles to the social cohesion needed to restore peace and security. The prevention of serious human rights violations is fundamental to the environment in which peace and development can flourish.

21. Sierra Leone highlights the potential for the strategic integration of United Nations efforts to consolidate peace. However, continued improvements are required to better align conflict analysis, political leadership and programmatic support in the field and in mission planning. The 2013 United Nations policy on integrated assessment and planning provides for joint analysis and a common United Nations vision of priorities for peace consolidation in each situation. Its implementation should help to ensure that mission planning is faster and more strategically focused. The early stages of mission planning and start-up are often arduous and lack strategic clarity, as experienced in the Central African Republic and Mali. As noted in my report on civilian capacity in the aftermath of conflict (A/68/696-S/2014/5), aligning mission and country team resources and capacity with a strategy for early institution-building continues to be a significant challenge.

22. Such alignment has progressed in the critical area of rule of law. The joint global focal point for the police, justice and corrections areas in the rule of law in post-conflict and other crisis situations is helping to link the expertise of the Department of Peacekeeping Operations, the United Nations Development Programme (UNDP) and other United Nations entities in order to develop and implement common strategies and programmes. Established in 2012, the global focal point has already led to increased inter-agency collaboration in Guinea, Libya, Mali and Somalia. An independent review of its first year of operation noted that the focal point holds further promise for the delivery of assistance to the field. Its next steps include an augmented role in the strategic direction of United Nations rule of law assistance, including support to mission transition planning and technical assistance on programme design and implementation.

23. Integration has often been complicated by high transaction costs and different mandates among various United Nations entities. It has been shown to be effective when operations are guided by a clear vision, with one set of objectives, together with a strategy for consolidating peace. We have seen in many cases that the facilitation and good offices initiatives of my Special Representatives, Special Envoys and Special Advisers are most effective when complemented by activities of country teams in the areas of institutional strengthening, dialogue and inclusive economic development. The Peacebuilding Fund has often been instrumental in advancing such an integrated approach.

24. During the period under review, the United Nations provided electoral assistance in a number of post-conflict contexts, including in Guinea and Madagascar, often combining technical assistance with good offices and diplomatic support to help ensure that elections contributed to peace consolidation rather than igniting tensions. One important institutional innovation to improve delivery of

electoral assistance is the establishment of the first, single, system-wide electoral roster designed to ensure the rapid deployment of electoral experts by all relevant parts of the United Nations system.

25. Positioning technical and programmatic support to contribute to larger political and strategic peacebuilding goals in non-mission settings is also key. The Joint (UNDP-Department of Political Affairs) Programme on Building National Capacities for Conflict Prevention seeks to increase the Organization's capacity to support national partners in their efforts to attain peaceful and sustainable development, including through the deployment of peace and development advisers. For example, peace and development advisers in Kyrgyzstan and Tajikistan, building on the efforts made by my regional Special Representative, have supported cross-border community-level dialogues to address tensions related to the use of water resources. In Kyrgyzstan, the adviser has supported government efforts to create local conflict-prevention mechanisms and worked closely with various government institutions to review proposed legislation for conflict sensitivity. The Peacebuilding Fund has, in recent years, increasingly supported this programme in order to ensure integrated and conflict-sensitive planning and programming.

26. Developing lessons on peacebuilding good practices requires more comprehensive information on the impact of diverse approaches and programmes. Experience has shown that quantifiable evidence of peacebuilding impact can appear elusive. Indeed, what is most important in some contexts, such as rebuilding societal trust and institutional legitimacy, may be the most difficult to assess. Too often activities focus on "hardware", such as equipment and buildings, which are easy to measure, rather than the more intangible outcomes that target the drivers of conflict. This has, for example, been the case in security sector reform, where there is a need to go beyond training and equipping, to investments in improved governance and oversight of security forces. The main threats to peace and stability should drive the design of peacebuilding activities as well as the development of corresponding benchmarks. The United Nations will need to expand and improve its mechanisms, including the use of surveys, for evaluating and monitoring progress in these areas.

III. Inclusivity

27. In my last report, I stressed the importance of mechanisms for inclusive politics in post-conflict transitions. I cannot overstate their importance today. Promoting inclusivity can involve difficult choices and trade-offs regarding urgency, representativeness, effectiveness and legitimacy. There are times, for example, when a peacemaking approach must be limited to the actual belligerents and political elites. Yet, in order to sustain peace and uphold basic rights of political participation, subsequent mechanisms for broad participation need to be embraced, with the goal of increasing inclusivity over time.

28. The promotion of inclusive politics is also integral to genuine national ownership of peacebuilding efforts and strategies. Where peacebuilding efforts are rooted in inclusive societal consultation and efforts to minimize exclusionary practices, they generate trust and legitimacy in the State and its institutions. By contrast, the absence of inclusive politics in the wake of conflict all too often contributes to violent contestation for control of the State. In such environments, the

timing and conduct of elections has to be approached with caution, as contested electoral processes and outcomes can be destabilizing. Any effort to build sustainable peace must manage political competition through institutions governed by law, rather than on the battlefield. At the same time, the development of mechanisms for inclusive politics and broad participation must take into account the divisions, fears and perceptions inherent in post-conflict communities.

29. Mechanisms for effective public participation are critical in the reform of core State institutions. In this regard, Tunisia provides an inspiring example. With broad participation from political parties and civil society, its political process culminated in the adoption of a new Constitution. The provision of technical expertise by the United Nations to all political parties in the Constituent Assembly, as well as the facilitation of inputs from Tunisian professional and civil society groups, were key to the credibility and success of the process.

30. In recent years the United Nations has used its good offices to advance inclusive political systems as part of strategies to promote peace consolidation. In Guinea, for example, my Special Representative for West Africa was instrumental in facilitating an inter-party agreement for the conduct of parliamentary elections in 2013. The country team developed innovative mechanisms to complement these negotiations and broaden participation by other key stakeholders, including women. To buttress the agreement, the United Nations conducted a series of public forums with local political leaders, which built awareness and trust in the electoral process. Moreover, the country team collaborated with the main political parties to train electoral monitors and build electoral management capacity within each party alliance.

31. These efforts were further supplemented by an initiative — the Women's Situation Room — that provided support to a network of local women's organizations, enabling women to play a crucial role as electoral monitors with a rapid response capacity. South-South cooperation between non-governmental organizations (NGOs) in Guinea, Mali and Senegal for technical support and training provided to the women's electoral monitors was a key aspect of the initiative, which was replicated in the elections in Guinea-Bissau in April 2014. The initiative encouraged confidence in the electoral process while at the same time strengthening women's political participation. These collaborative interventions helped to ensure that the 2013 election took place without the inter-communal violence that marred Guinea's first post-crisis elections in 2010.

32. In Burundi the Peacebuilding Commission, together with the country team, supported the efforts of the United Nations Office in Burundi (BNUB) to foster a more inclusive political environment in the context of increased political tensions and human rights violations. My Special Representative worked closely with the Government, opposition parties and civil society organizations to strengthen political dialogue, including through the organization of a series of workshops, which spurred the consensual adoption of an electoral road map and a code of conduct for the elections in 2015. BNUB also supported national stakeholders in developing a new electoral code, which was adopted by the National Assembly in April 2014. The emphasis on broad public engagement was intended to safeguard against electoral violence or contested electoral outcomes. As ongoing violence related to the youth wings of political parties is of particular concern, my Special Representative also promoted non-violent engagement of youth in politics,

including through programmes funded by the Peacebuilding Fund and implemented by the country team. These efforts were conducted in advance of the withdrawal of BNUB at the end of 2014 and the deployment of a United Nations electoral observer mission requested by the Government.

33. The Government of Kyrgyzstan established an agency in 2013 to lead the implementation of a new government policy, developed with United Nations and Peacebuilding Fund support, on national unity and inter-ethnic relations. The United Nations also provided technical assistance for a broad dialogue concerning multilingual education, minority representation in politics and more inclusive local self-government. Moreover, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and UNDP provided legal training and logistical support to the Women's Peace Committees, which made possible the monitoring of community-level tensions and improved government response, and the Office of the United Nations High Commissioner for Refugees supported durable solutions for displaced persons. These activities contributed to a deeper sense of social cohesion and boosted trust between the population and local authorities throughout the southern districts of the country affected by the conflict. Despite areas of ongoing fragility, evaluations have shown that these programmes also nurtured a heightened sense of security and safety in some areas affected by the unrest in 2010.

34. UN-Women, with financial assistance from the Peacebuilding Fund, supported women-run conflict-resolution mechanisms, known as "peace huts" in Liberia. These mechanisms provided safe communal spaces for women to promote community dialogue and mediation efforts and are credited with having improved local security. In some areas, "peace huts" have also become a platform to protest the illegal exploitation of Liberia's natural resources.

35. Giving voice to women's concerns in all stages of peacemaking and peacebuilding is essential to the development of inclusive politics. Further advancing women's participation in post-conflict political and development processes, as set forth in my Seven-Point Action Plan on Gender-Responsive Peacebuilding, remains a top priority. Since my report on women's participation in peacebuilding (A/65/354-S/2010/466), a growing number of women have been appointed to senior positions as mediators, envoys and members of negotiation teams. The United Nations has also increased its support to women's civil society organizations in accessing peace processes and advancing post-conflict political participation.

36. Progress is being made in the allocation of funding to support gender-responsive peacebuilding programming, although tracking progress remains difficult owing to the lack of good data. The Peacebuilding Fund uses a gender marker to track funding allocations to women's empowerment and gender equality. The steady increase in projects funded from the Peacebuilding Fund in which gender is fully integrated — from 10 per cent in 2008 to 70 per cent in 2013 — reflects a growing recognition of the relevance of gender issues to all peacebuilding interventions. Nevertheless, funding allocations for projects whose main objective is to promote women's empowerment and gender equality are falling short of the 15 per cent target. Such allocations amounted to 7.4 per cent in 2013, down from 10.3 per cent in 2012 when the Fund's allocation was boosted because of the gender promotion initiative. A review of over 300 UNDP projects in six post-conflict contexts revealed

that 14 per cent of funding had been allocated to activities that would make a significant impact on gender equality, while 6 per cent of funding was allocated exclusively to women's empowerment and gender equality. This finding highlights the continuing need for proactive approaches, such as the second gender promotion initiative that the Fund launched in 2014.

37. Despite some promising developments, gaps remain between the ambitions expressed in the Seven-Point Action Plan and the Organization's concrete activities in this area. In particular, there has been a continued lack of investment in activities supporting women's economic empowerment, including in addressing issues of access, use and control of natural resources. I also encourage United Nations entities to prioritize women's access to justice in rule of law programming in post-conflict environments.

38. The United Nations Peace Fund for Nepal stands out for its multifaceted efforts to mainstream gender perspectives into its management and programming. Thirty per cent of monies earmarked for projects during the funding round in 2012 were allocated to addressing the needs of women and girls and/or gender equality. Projects supporting land reform, conflict prevention, the rule of law and the reintegration of child soldiers all included specific provisions to address the needs of women and girls. Such measures contributed to the implementation of the Government's national action plan on Security Council resolutions 1325 (2000) and 1820 (2008). One of these projects undertook women's safety audits to determine the location of police station deployments in order to improve the security of women and girls. A project on land issues ensured extensive women's participation in consultations on land-use planning, which has traditionally been a male domain. Developments in Nepal demonstrate that appreciable progress can be made with targeted funding, leadership and capacities for gender-responsive programming.

39. As I pointed out in my last report, youth should also be part of inclusive peacebuilding processes to bolster the likelihood of sustained peace. In the ensuing years the Peacebuilding Support Office, together with other United Nations entities, NGOs and youth organizations, developed guiding principles on the participation of young people in peacebuilding. The principles build upon experiences from UNDP, the United Nations Educational, Scientific and Cultural Organization, the United Nations Population Fund and the United Nations Children's Fund (UNICEF), which have adolescent and youth-specific interventions in many conflict-affected countries.

IV. Institution-building

40. Building strong and effective institutions remains a core element of post-conflict peace consolidation and a critical task for the United Nations system. Effective, legitimate and accountable State institutions that deliver public services reduce incentives for violent conflict and strengthen the State's resilience in the face of possible renewed violence. The capacity of such institutions to respond to popular expectations is one of the key conditions for sustainable peace. Experience shows, however, that this goal is neither quick nor easy to achieve and that efforts to build post-conflict institutions must be conceived of as a long-term undertaking even under the best of circumstances. In my last progress report on civilian capacity in the aftermath of conflict (A/68/696-S/2014/5), I emphasized the role of

institution-building at both the political and technical levels, and underlined the need for a more systematic and coherent response by the United Nations that is strongly connected to national priorities.

41. Investments in institution-building in the aftermath of conflict must be planned with close attention to the prevailing political situation. Unresolved tensions and political competition, as well as popular mistrust in Government, limit the feasibility of rapid wholesale reforms of public administration in the aftermath of conflict. Such is the conclusion of a recent United Nations review, which recommended rapid support to restoring basic functionality and service delivery using existing institutions and systems. The review also emphasized the need to provide greater support to local governments, which play a critical role in providing social services and rebuilding the trust in and legitimacy of the Government.

42. We have seen a number of positive examples in recent years that the United Nations can build on going forward to support institution-building in post-conflict situations. For example, the UNDP-supported Regional Initiative for Capacity Enhancement of the Intergovernmental Authority on Development, funded by Norway, helped to address the inability of South Sudan to deliver core public services from 2010 onwards. By embedding civil service mentors from neighbouring States in various ministries, the project provided rapid, tailored and cost-effective civil service capacity development. Some embedded mentors have continued to work despite renewed conflict. Notwithstanding the violence that erupted in December 2013, the programme can serve as a model in other post-conflict settings.

43. The United Nations invested heavily in the revitalization of State institutions and the improvement of access to justice in the regions of Côte d'Ivoire most affected by the post-electoral violence in 2011, working with the Government to redeploy State representatives and refurbish State infrastructure. As the right to Ivorian citizenship was highly contested during the conflict, initiatives were launched to simplify birth registration and the issuance of identity papers, which contributed to better access to services and higher electoral participation, as well as strengthened social cohesion. Community-led, early childhood development centres, supported through UNICEF, further helped to build social cohesion by bringing together women from divergent backgrounds around the common goal of children's well-being. With United Nations support, new systems of community-oriented policing and oversight were also introduced as a means of repairing public trust and confidence in the police and gendarmerie. These steps, and other measures, have expedited the return of refugees and displaced persons, as well as the resolution of a number of local, land-related disputes.

44. Reform of rule of law institutions, including improvements in oversight, accountability and administration, is often a key priority for post-conflict countries. In Burundi support to the National Independent Human Rights Commission has been central to the United Nations strategy to enhance the country's capacity to monitor and report on human rights violations. The Commission, which carries out human rights investigations, has worked to improve the impartiality and performance of the security forces and to enhance overall respect for human rights in Burundi. In Liberia the United Nations supported the establishment of the first of three justice and security hubs, in Gbarnga, with additional hubs under development in Zwedru and Harper. The hubs, which receive extensive funding from the

Peacebuilding Fund, are a key component of the Government's strategy for extending justice and security services beyond the capital. The results of a user satisfaction survey conducted in 2013 indicated higher levels of appreciation for security services in counties covered by the Gbarnga hub and credited it with reduced levels of violence. Yet, challenges remain, including the generation of sustainable domestic funding for the hubs and the slow deployment of necessary staff and services.

45. As in Côte d'Ivoire and Liberia, expanding the presence of the State into areas previously controlled by armed groups remains critical to stability in the Democratic Republic of the Congo. Building upon new opportunities created by the surrender of the March 23 Movement (M23), the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), United Nations entities and other partners work within the International Security and Stabilization Support Strategy to support the State's ability to re-establish its presence and functions. The initiative bridges the Mission's protection and stabilization efforts, providing logistical and technical support for the deployment of public administration, police and the judiciary. Within this framework, UNDP and MONUSCO have supported mobile courts and the deployment of a special police unit for the protection of women and children, which led to the referral of more than 1,000 cases of sexual violence to the judicial system in 2013 and the first half of 2014. Such efforts are combined with the promotion of dialogue with local communities to ensure greater acceptance and greater public accountability of the new institutions and the peaceful resolution of disputes. Progress in many parts of the east could be further enhanced by addressing implementation delays, funding shortfalls and a lack of government employees in areas where the Government has regained control. The time lapse between military control and the extension of State authority can undermine the State's ability to create a stabilizing presence.

46. Rapid resumption of social service delivery can also play an important role in supporting the extension of State authority. The efforts of UNICEF in Somalia, for example, support the resumption of educational services through the rehabilitation and construction of schools in areas recaptured from al-Shabaab, helping to restore confidence in the State. The programme, conducted as part of the three-year interim education sector strategic plan, involves extensive participation of diverse clans and communities so as to strengthen social cohesion and ensure broad acceptance.

47. The early availability of funding for institution-building is critical to the rapid restoration of basic State administrative and service delivery functions. Policy and guidance tools, reflecting lessons learned from previous undertakings, are also necessary. To this end, the United Nations and the World Bank have developed a joint diagnostic tool for re-establishing core government functions in post-conflict situations. The Central African Republic has already benefited from this endeavour. A joint World Bank and United Nations initiative for the early payment of salaries to civil servants bolstered confidence in the Transitional Authorities and helped to ensure the basic functioning of ministries and security forces in advance of more comprehensive assistance.

48. Beyond such efforts, generating sufficient domestic revenues to fund government operations is essential to the development of State institutions. In Burundi, Liberia and Rwanda the creation of an independent taxation authority and the revision of tax policies with United Nations technical support have led to

significant increases in public revenue collection. This is particularly notable because developing a domestic tax base and collection system is a long-term endeavour, prompting many countries to rely primarily on natural resources for State revenue in the years after conflict.

49. Sustainable and transparent management of natural resources is central to post-conflict planning since it represents both a critical source of government revenue and a significant driver of violent conflict where natural resources are not well managed. Overdependence on such revenues can discourage countries from developing sustainable tax income, which is critical for long-term growth and enhancing a social contract. The challenge lies in establishing institutions that support a sustainable transformation of natural assets into State revenues, livelihoods and infrastructure without creating new sources of friction or contributing to long-term environmental degradation.

50. To meet this challenge, the United Nations has established a global partnership with the European Union on land, natural resources and conflict prevention, which has assisted several Governments, including in Afghanistan, with the management of natural resources in ways that minimize conflict. In the Great Lakes region, the partnership is supporting Burundi, the Democratic Republic of the Congo, Rwanda and Uganda to improve natural resource management and promote transparency in land tenure and mining, in collaboration with civil society groups and the private sector. In addition, the United Nations and the World Bank have developed a conflict-sensitive framework to help Governments respond to conflict risks through key entry points along the extractive industries value chain.

51. In Sierra Leone the United Nations worked to strengthen the capacity of the Environmental Protection Agency's long-term resource planning, mine monitoring and environmental assessment. This has led to improved environmental and social impact assessments, which, in turn, helped to accelerate investment in the sector. Impact assessments have provided a mechanism to encourage public participation in decision-making over natural resource management, reducing tensions with local communities. In Liberia, where competition for land and control over natural resources are also sources of conflict, the United Nations is working with the World Bank to help the Government to better manage natural resource concessions through strengthened citizens' consultation and engagement in planning and implementation. This effort complements the capacity-building and technical assistance provided by the United Nations Human Settlements Programme to Liberia's Land Commission, which is implementing extensive land reforms, as well as engaging in community-level, land dispute resolution.

52. Post-conflict States are vulnerable not only to violence and the destabilization of institutions, but also to infiltration by organized crime. Indeed, transnational organized crime, including trafficking in drugs and arms, continues to undermine progress towards sustainable peace in Central America, Central Asia and West Africa. Under the West Africa Coast Initiative, multi-agency transnational crime units were established in Guinea-Bissau, Liberia and Sierra Leone, to be followed by Côte d'Ivoire and Guinea later in 2014. While full implementation in Guinea-Bissau was delayed by the coup d'état in 2012, the Liberian and Sierra Leonean transnational crime units have advanced national and international cooperation, leading to arrests, convictions and substantial drug seizures. The decision by the Government of Sierra Leone to fully incorporate the units within its national

security architecture and budget demonstrated its deep commitment to the initiative. The United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) is assisting Malian police and law enforcement institutions to improve their capacity to conduct counter-narcotics operations, criminal investigations and border control.

53. The Ebola outbreak in Guinea, Liberia and Sierra Leone in 2014 has led to great loss of life and has had severe consequences for people's livelihoods and State institutions in the affected countries. The epidemic has had a particularly devastating impact on the health-care sector and has placed new strains on the security and justice sectors and core government functions. The epidemic has highlighted institutional weaknesses in the affected countries and the need for sustained support to national frameworks and systems, which are crucial for long-term stability.

V. Sustained international support and mutual accountability

54. Post-conflict peacebuilding is a generational undertaking that relies heavily on predictable financial, technical and political support in the short, medium and long term. It also requires coherence among a wide spectrum of actors, including neighbouring countries, regional and subregional organizations, international financial institutions and donor countries. The transnational dimensions of many conflicts, including the cross-border movement of weapons, combatants and illicit financial and natural resource flows, make regional involvement in support of post-conflict stability essential. The annual session of the Peacebuilding Commission in June 2014 also highlighted the need for greater international and regional cooperation to help post-conflict States combat illicit financial flows, which deprive them of critical resources for institution-building and development.

55. The peace, security and cooperation framework for the Democratic Republic of the Congo and the region represents a groundbreaking commitment by the countries of the region and international and civil society organizations to join forces around mutual accountability and sustainable peace. The framework, signed by 13 African States and witnessed by the International Conference on the Great Lakes Region, the Southern African Development Community, the African Union, the United Nations and other key partners requires its signatories to implement policies that foster political stability, justice, security and development. It is a tool that is essential to ensure greater coherence among international and regional actors in support of the peacebuilding process in the Democratic Republic of the Congo and the Great Lakes region.

56. Recent experience in the Sahel and central Africa has also illustrated the need for regional strategies that are multidimensional, addressing political, security and developmental aspects. Reflecting this need, the United Nations has developed an integrated strategy for the Sahel that is built around support for inclusive and effective governance, regional and national security mechanisms capable of addressing cross-border threats and integrated plans for long-term resilience. As part of the strategy, the United Nations is partnering with the African Union to support a regional, ministerial-level leadership platform tasked with boosting security coordination and cooperation in the region and neighbouring States. This effort

represents an extraordinary move to advance partnerships among international, regional and national actors in a comprehensive way.

57. The President of the World Bank and I made unprecedented visits to the Great Lakes region in May 2013, and to the Sahel, together with colleagues from the African Union, the African Development Bank and the European Union, in November 2013. These joint visits drew attention to peacebuilding challenges in two highly vulnerable regions and provided renewed emphasis on the United Nations-World Bank partnership. Our visit underscored the close collaboration between the United Nations and the World Bank in Mali, where a joint project assesses the economic and social impact of MINUSMA deployment with a view to maximizing benefits to the local economy. Simultaneously, the World Bank financial management assessment of Mali's security sector will make possible more transparent management of and greater international support to this sector.

58. The Peacebuilding Commission also has a particular role to play in enhancing the coherence of regional efforts. This has been a priority for the Commission, especially recently, with regard to the Central African Republic and Guinea-Bissau, where the Chairs of the Commission's respective country-specific configurations have worked closely with my Special Representatives to engender collaboration from neighbouring countries and the region.

59. In addition to political support, most countries emerging from conflict require sustained financial and technical support for essential State functioning and the development of effective institutions. In this regard, the United Nations is expanding its partnerships and collaboration with international financial institutions, including regional development banks, to support post-conflict recovery and promote coherence and long-term financial assistance. A case in point is the Geneva Partners Conference organized by the Government of Burundi in October 2012 with the support of the Chair of the Peacebuilding Commission's country-specific configuration, the African Development Bank and the World Bank, which raised pledges of more than $2.5 billion in support of Burundi's poverty reduction strategy paper.

60. In post-conflict situations, pooled financing mechanisms continue to be important instruments for coherent and sustained international support. They encourage aid alignment behind government priorities, foster greater coherence of international responses to complex situations, reduce transaction costs, share risks and strengthen mutual accountability. The Peacebuilding Fund is one such pooled financing mechanism. It has been extremely useful in enabling the United Nations to support peace processes, foster rapid implementation of peace agreements and invest in early institution-building and the provision of peace dividends. Since its creation, the Fund has allocated nearly $500 million, with the countries on the agenda of the Peacebuilding Commission receiving more than half. Pooled funding instruments have also served to enhance collaboration between the United Nations and the World Bank. The Somalia development and reconstruction facility, for example, serves as both a coordination framework and a financing architecture providing a single strategy and oversight mechanism for trust funds managed by the World Bank and the United Nations.

61. Compacts between post-conflict States and key international partners around mutually agreed peacebuilding priorities also have the potential to ensure more effective and sustained assistance. The New Deal compacts in Sierra Leone and

Somalia have galvanized joint efforts by the respective Governments and their international partners to identify clear national peacebuilding priorities. In Somalia the compact was accompanied by the Somalia development and reconstruction facility, which channels new funding in support of the compact's priorities. If their development and implementation reflect domestic consensus on political and developmental goals, compacts can provide an opportunity to maintain coherent international engagement in the longer term and ensure mutual accountability between countries emerging from conflict and their international partners.

62. Generating sustained international political and financial support is particularly critical during the drawdown and closure of United Nations missions. Mission transition and reconfiguration involves the handover of responsibilities to national Governments, with the country team continuing to play a supporting role. New guidelines for these transitions, based on realistic timelines and benchmarks, as well as guidance for comparative advantage analysis, were developed as a complement to the integrated assessment and planning policy. The guidelines advanced better planning and coordination in the transition in Sierra Leone, which was completed smoothly in March 2014.

63. Typically, peacebuilding challenges in post-conflict countries outlast the presence of United Nations missions. For country teams to continue critical interventions in institution-building and development, sufficient funding and capacities must be available. The withdrawal of missions also can limit the Organization's ability to provide ongoing political support and facilitation, which remains critical in some countries. In such cases, the engagement of regional and subregional organizations together with intergovernmental mechanisms, such as the Peacebuilding Commission, should be called upon to provide the political accompaniment required to reduce the risk of relapse.

64. For the United Nations, the peacebuilding architecture created in 2005 remains a cornerstone of international efforts to support countries emerging from conflict. The decision by Member States to establish the architecture was a response to the frequent relapse into violence of countries emerging from conflict and to a perceived gap in the overall international structure. Within the United Nations, the architecture institutionalized a mechanism to promote sustained attention and coherence of international efforts over time. Its centrepiece is the Peacebuilding Commission, which can bring to bear the collective weight of Member States in support of peace consolidation, utilizing a longer-term post-conflict perspective.

65. The Peacebuilding Commission has devoted considerable effort to realizing a strengthened, more flexible and more strategic role as an intergovernmental mechanism supporting countries emerging from conflict by focusing on its three core functions: political advocacy; resource mobilization; and the coherence of international efforts. It has achieved important results, albeit unevenly, through its country-specific configurations for the six countries on its agenda. Moreover, the Commission has addressed broader peacebuilding themes and policy issues aimed at extracting lessons learned and sharing experiences on cross-cutting issues.

66. The review of the peacebuilding architecture in 2015 will provide an opportunity to strengthen and clarify the scope and quality of the Peacebuilding Commission's engagement and the ways in which it could enhance the broader peacebuilding activities of the United Nations system and the larger international community. I urge Member States to shape the kind of Commission that is relevant,

catalytic and effective. Member States should also consider how best to adapt the Commission's working methods to the changing international environment and to developments within the United Nations and other international organizations since 2005.

VI. Conclusion

67. Countries emerging from conflict face formidable challenges as they seek to overcome the legacy of war and find the path to peace and security. The United Nations has made significant progress in its peacebuilding support to such countries, in several areas and in a variety of contexts. Yet, the Organization has also faced relapses into violence, which underscore the enormity of the task and compel an improvement in its strategies and approaches.

68. Going forward, the United Nations, Member States and the wider international community engaged in post-conflict peacebuilding should collectively focus on the following priorities:

(a) The international community needs to do more to sustain financial, technical and political support to post-conflict countries. Continued Member State engagement through the Peacebuilding Commission and through groups of friends or contact groups has proven to be fundamental to sustaining international attention;

(b) There are continued gaps in the provision of rapid and coherent financial support for the extension of State authority and the re-establishment of core public administration functions. There is also a need to sustain financial support over the long period required by post-conflict States to establish effective institutions, including mechanisms for dialogue and the management of tensions. I urge Member States to continue contributing generously to the Peacebuilding Fund and other pooled financing mechanisms and to coordinate their funding strategies in support of national priorities;

(c) Collaboration with the World Bank and regional development banks should be expanded to support, among other areas, the effective extension of State authority and the strengthening of public financial management, which are critical in post-conflict States. Such partnerships could mobilize specific skills and expertise as well as additional financial resources;

(d) Regional actors and neighbouring countries play a critical role in creating environments conducive to sustainable peace for countries emerging from violent conflict. The Peacebuilding Commission, regional and subregional organizations can support the creation of such environments, in collaboration with United Nations entities. At the same time, further consideration should be given to how the United Nations system can better support regional efforts;

(e) Compacts remain an important tool to set national peacebuilding priorities and align support from the international community. They should be designed to strengthen political accompaniment of national commitments. I encourage the involvement of regional actors in these compacts;

(f) The United Nations must also work in a more integrated and coherent manner. Its efforts must be guided by a political strategy that addresses the principal threats to peace and stability so that programmatic activities can best support the

consolidation of peace. Planning processes should ensure that the United Nations family works towards a clear set of strategic objectives aimed at consolidating peace;

(g) The development of core political institutions, civilian oversight of the security forces, public administration and basic services need to be rooted in inclusive political agreements to ensure the popular legitimacy of the State. The process of inclusive institution-building often requires continued facilitation from the United Nations as well as sustained political support from regional organizations and Member States;

(h) The review of the peacebuilding architecture in 2015 provides an opportunity to ensure that it better serves the needs of countries emerging from conflict and that collective efforts to prevent their relapse into conflict are more successful. I urge Member States to take advantage of the review to make this a reality.

69. I remain committed to continue learning lessons from our experiences on the ground in diverse contexts in order to optimize the impact of United Nations peacebuilding efforts, including in furtherance of my Seven-Point Action Plan on Gender-Responsive Peacebuilding.

70. I stand ready to report further on the Organization's progress, experiences and lessons learned in peacebuilding.